

CAUSE NO. 2023-05058**PEACHRIDGE ENERGY
OPERATING, LLC,***Plaintiff,*

v.

BASIN ENGINEERING, LLC,*Defendant.*§
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§**IN THE DISTRICT COURT OF****HARRIS COUNTY, TEXAS****129TH JUDICIAL DISTRICT****DEFENDANT BASIN ENGINEERING, LLC'S ORIGINAL ANSWER**

BASIN ENGINEERING, LLC ("Defendant"), files this Original Answer to Plaintiff's Original Petition, and would respectfully show the Court the following:

I.**GENERAL DENIAL**

Subject to such stipulations and admissions as may hereafter be made, Defendant asserts a general denial as authorized by Rule 92 of the Texas Rules of Civil Procedure and respectfully requests that Plaintiff be required to prove the charges and allegations made against Defendant by a preponderance of the evidence as required by the Constitution and the laws of the State of Texas.

II.

AFFIRMATIVE DEFENSES

1) Comparative Fault

The incident complained of in Plaintiff's Original Petition was caused by the negligence and carelessness on the part of Plaintiff and/or a third-party whom Defendant exercise no control or right of control, and this was the sole cause or at least a proximate cause of the incident made the basis of this lawsuit.

2) Failure to Mitigate Damages

Plaintiff's claims are barred, in whole or in part, by Plaintiff's failure to mitigate damages.

3) Waiver

Pleading further and in the alternative, Defendant would show that Plaintiff's causes of action and alleged elements of damages are barred and/or limited by waiver.

4) Estoppel

Pleading further and in the alternative, Defendant would show that Plaintiff's causes of action and alleged elements of damages are barred and/or limited by estoppel and/or quasi-estoppel.

5) Offset

Pleading further and in the alternative, Defendant would show that Plaintiff's causes of action and alleged elements of damages are barred and/or limited by setoff and/or offset.

6) *Economic Loss Rule*

Pleading further and in the alternative, Defendant would show that Plaintiff's causes of action are barred by the application of the economic loss rule.

7) *Punitive Damages*

For further answer, if such be necessary and in the alternative, should Plaintiff be entitled to punitive damages, which is denied, Defendant is entitled to the limitations on punitive damages as dictated by Texas law. Defendant further affirmatively pleads the imposition of punitive and/or exemplary damages in this proceeding would violate the Constitution of the United States, and the Constitution of the State of Texas in one or more of the following respects, to wit:

- a. Due process requires proof of gross negligence and punitive damages by a standard greater than the "preponderance of the evidence" standard. Due process requires proof of such claims by at least a clear and convincing evidence standard of proof.
- b. The assessment of punitive damages, a remedy that is essentially criminal in nature, constitutes infliction of a criminal penalty without the safeguards guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the Constitution of the United States, the Eighth Amendment to the Constitution of the United States, and Article 1, Sections 13 and 19 of the Constitution of the State of Texas.

III.

RULE 193.7 NOTICE OF INTENT TO USE DISCOVERY DOCUMENTS

Pursuant to TEX. R. CIV. P. 193.7, Plaintiff is hereby notified that Defendant shall use any and all documents Plaintiff and Defendant produce in response to any discovery request in all pretrial proceedings and at the time of trial.

IV.

NOTICE OF CONSENT TO ELECTRONIC SERVICE

Defendant consents to electronic service of pleadings, motions, orders, notices, and discovery in this cause only when service is completed through eFileTexas.gov, the state-authorized electronic filing manager and by serving all individuals who have elected to receive notice on behalf of Defendant.

V.

PRAYER

FOR THESE REASONS, Defendant, **BASIN ENGINEERING, LLC**, prays that Plaintiff takes nothing by way of this suit; that Judgment be entered for Defendant; that Defendant recovers costs of Court; and that it has such other and further relief, at law and in equity, to which it may be justly entitled.

Respectfully submitted,

LANZA LAW FIRM, P.C.

/s/ Stew Schmella

NICK LANZA

TBA No. 11941225

STEW SCHMELLA

TBA No. 24033041

GRACE N. COUSINS

TBA No. 24109758

2502 Algerian Way

Houston, TX 77098

eservice@lanzalawfirm.com

(713) 432-9090 Telephone

(713) 668-6417 Facsimile

**ATTORNEYS FOR DEFENDANT,
BASIN ENGINEERING, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was sent to all known counsel of record on the 14th day of April 2023, via electronic service provider.

/s/ Stew Schmella
STEW SCHMELLA

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Grace Cousins on behalf of Stewart Schmella

Bar No. 24033041

GCousins@lanzalawfirm.com

Envelope ID: 74681982

Filing Code Description: Answer/ Response / Waiver

Filing Description: Defendant's Original Answer

Status as of 4/17/2023 8:09 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Marty Truss		marty.truss@steptoe-johnson.com	4/14/2023 6:02:06 PM	SENT
Maggie Keller		maggie.keller@steptoe-johnson.com	4/14/2023 6:02:06 PM	SENT
Alyssa Isenberg		alyssa.isenberg@steptoe-johnson.com	4/14/2023 6:02:06 PM	SENT
Lanza Law Firm E-Service		eservice@lanzalawfirm.com	4/14/2023 6:02:06 PM	SENT
Kerry Dillon		kdillon@lanzalawfirm.com	4/14/2023 6:02:06 PM	SENT
Grace Cousins		gcousins@lanzalawfirm.com	4/14/2023 6:02:06 PM	SENT
Stewart K.Schmella		sschmella@lanzalawfirm.com	4/14/2023 6:02:06 PM	SENT